

Decision 03-05-060 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Gerardo H. Giron Jr. dba E Z Shuttle for authority to operate as a scheduled passenger stage corporation between points in Paradise Hills and National City and to establish a Zone of Rate Freedom.

Application 03-01-025
(Filed January 29, 2003)

O P I N I O N

Summary

This decision grants the application of Gerardo H. Giron Jr. (Applicant), an individual, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

Applicant requests authority to operate as a scheduled PSC transporting passengers and their baggage between National City and the community of Paradise Hills in the City of San Diego. He will operate daily, 7:00 a.m. to 7:00 p.m., using one 8-passenger van. Stops along the circuitous 10-mile route will include the 24th Street Trolley Station and the 32nd Street Naval Base.

During 24 years of service with the U.S. Navy, Applicant's experience included scheduling the transportation of personnel and the movement of material and supplies. Exhibit D of the application is an unaudited balance sheet as of December 30, 2002, that discloses assets and net worth of \$37,000.

Applicant also requests authority to establish a ZORF between \$2 and \$5. He proposes to set his fares initially at \$2 and \$2.50, depending on the passenger's points of travel. The requested ZORF will give Applicant flexibility to adjust his fares in the future to respond to changes in operating costs, passenger counts, and other factors affecting revenues and expenses. Applicant will be operating in an urban area where other modes of transportation are available, including public transit, taxicabs, limousines, and private automobiles. This competitive environment should result in Applicant setting his fares at a reasonable level. Many other PSCs have been granted ZORFs.

Notice of filing of the application appeared in the Commission's Daily Calendar on January 31, 2003. Applicant served a copy of the application to the affected public transit operator and the affected cities in the service area.

In Resolution ALJ 176-3107 dated February 13, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3107.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between points and places in Paradise Hills and National City.

2. Public convenience and necessity requires the proposed service.
3. Applicant requests authority to establish a ZORF between \$2 and \$5.
4. Applicant will compete with public transit, taxicabs, limousines, and private automobiles in his operations. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show between each pair of service points the high and low ends of the ZORF and the then currently effective fare.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.
5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Gerardo H. Giron Jr. (Applicant), an individual, authorizing him to operate as a

passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage, between the points and over the routes set forth in Appendix PSC-16113, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) between \$2 and \$5.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in his terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that his evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-16113, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-16113

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Gerardo H. Giron Jr., an individual, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled service, over and along the route described in Section II, subject however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Service will be operated only at the points and places described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. ROUTE DESCRIPTION.

Commencing from any point in Paradise Hills (City of San Diego), then over the most convenient streets, expressways, and highways to National City.